

## Office of the Secretary of the Treasury

## § 50.80

has not properly disbursed previous advances of the Federal share of compensation or otherwise has not complied with the requirements for advance payment as provided in this subpart.

(f) *Affiliated group.* In the case of an affiliated group of insurers, Treasury will make payment of the Federal share of compensation for the insured losses of the affiliated group to the insurer designated in the Initial Notice of Insured Loss to receive payment on behalf of the affiliated group. The designated insurer receiving payment from Treasury must distribute payment to affiliated insurers in a manner that ensures that each insurer in the affiliated group is compensated for its share of insured losses, taking into account a reasonable and fair allocation of the group deductible among affiliated insurers. Upon payment of the Federal share of compensation to the designated insurer, Treasury's payment obligation to the insurers in the affiliated group with respect to any insured losses covered on the applicable bordereau is discharged to the extent of the payment.

### § 50.55 Determination of Affiliations.

For the purposes of subpart F, an insurer's affiliates for any Program Year shall be determined by the circumstances existing on the date of occurrence of the act of terrorism that is the first act of terrorism in a Program Year to be certified by the Secretary for that Program Year. Provided, however, if such act of terrorism occurs after March 31, 2006, the act of terrorism must also be a Program Trigger event to determine affiliations as provided in this section.

[71 FR 27572, May 11, 2006]

## Subpart G—Audit and Investigative Procedures

### § 50.60 Audit authority.

The Secretary of the Treasury, or an authorized representative, shall have, upon reasonable notice, access to all books, documents, papers and records of an insurer that are pertinent to amounts paid to the insurer as the Federal share of compensation for insured

losses for the purpose of investigation, confirmation, audit and examination.

### § 50.61 Recordkeeping.

Each insurer that seeks payment of a Federal share of compensation under subpart F of this part shall retain such records as are necessary to fully disclose all material matters pertinent to insured losses and the Federal share of compensation sought under the Program, including, but not limited to, records regarding premiums and insured losses for all commercial property and casualty insurance issued by the insurer and information relating to any adjustment in the amount of the Federal share of compensation payable. Insurers shall maintain detailed records for not less than 5 years from the termination dates of all reinsurance agreements involving commercial property and casualty insurance subject to the Act. Records relating to premiums shall be retained and available for review for not less than 3 years following the conclusion of the policy year. Records relating to underlying claims shall be retained for not less than 5 years following the final adjustment of the claim.

[68 FR 59720, Oct. 17, 2003, as amended at 69 FR 39307, June 29, 2004]

## Subpart H—Recoupment and Surcharge Procedures [Reserved]

## Subpart I—Federal Cause of Action; Approval of Settlements

SOURCE: 69 FR 44941, July 28, 2004, unless otherwise noted.

### § 50.80 Federal cause of action and remedy.

(a) *General.* If the Secretary certifies an act as an act of terrorism pursuant to section 102 of the Act, there shall exist a Federal cause of action for property damage, personal injury, or death arising out of or resulting from such act of terrorism, pursuant to section 107 of the Act, which shall be the exclusive cause of action and remedy for claims for property damage, personal injury, or death arising out of or